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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			CHOI, PETER H	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/011,014		NELSON, EUGENE C.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Peter Choi		3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/5/01</u> . | 6) <input checked="" type="checkbox"/> Other: <u>1.105 Requirement</u> .                |

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**DETAILED ACTION**

1. Claims 1-9 are pending in the application.

***Priority***

2. Applicant is awarded the priority filing date of 11/03/00 and the claims will be examined accordingly.

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- 50 (Figure 3)
- 120 (Figure 4). It is further noted that neither of the steps of continuing to view data, or logging out of PVCS are associated with any reference numbers in the specification.
- 312, 314, 318, 320, 322 (Figure 11)
- 336 (Figure 12)
- 372 (Figure 14)
- 400, 402, 404, 406, 408 (Figure 15)
- 422, 424, 426 (Figure 16)

- 450 (Figure 18)

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "112" has been used to designate both the step of producing reports and logging out of PVCS (Figure 4).

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "50" (Figure 3) and "100" (Figure 4) have both been used to designate the flow diagram. It is noted that reference number 100 is cited in the specification for use with the flow diagram.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the following reasons:

- Figures 5-18 appear to be screen shots of the claimed invention. For the most part, reference characters within the body of the figure are difficult to decipher. This is due to the fact that, when scanned, the Figures are predominantly white, gray, and black, making it difficult to distinguish reference characters. To make these features more visible, the Examiner suggests the Applicant resubmit the drawings in black and white (eliminating the gray color scale prominently featured in the figures).

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Specification***

7. The disclosure is objected to because of the following informalities:

- On page 8, line 14: user login interface 100 is referenced. However, reference character is already used to represent flow diagram (line 22 of page 7) and reference character 200 is used to represent user login interface (as cited in line

13 of page 8). The Examiner has assumed that the cited user login interface on line 14 is consistent with the user login interface 200 found on line 13.

- On page 12, lines 5-6: the Applicant has made reference to co-pending application "INTERACTIVE SURVEY AND DATA MANAGEMENT METHOD AND APPARATUS". However, the serial number supplied is incorrect. 09/871,278 is entitled "SYSTEM AND METHOD FOR CONDUCTING SECURE ON-LINE TRANSACTIONS USING A CREDIT CARD". The Examiner notes that 09/871,279 is the actual serial number for the application cited by the applicant.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havens (U.S Patent #5,909,669) in view of Kraftson et al. (U.S Patent #6,151,581).

As per claim 1, Havens teaches a system for evaluating survey information comprising:

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a storage device (**database 12, including rank database 14, weight database 16, benchmark value 18**) [Column 6, lines 20-47, Column 9, lines 3-4, 12-18; Claims 1, 10, and 16; Figure 2];

a display device (**output device 64**) [Column 10, lines 12-13; Figure 2];

a server (**system 10 may operate on one or more computers 60; computer 60**) [Column 10, line 9] programmed to:

maintain in the storage device a database with data information from a data collection (**survey data 15 is retrieved from rank database 14, criteria weights 54 and 56 from weight database 16, benchmark values in benchmark value database 18**) [Column 6, lines 20-47, Column 9, lines 3-4, 12-18; Claims 1, 10, and 16; Figure 2]; and

perform calculations on the data information from the data collection (**calculator 38 receives and manipulates survey data segments 32, 34, and 36 in order to generate one or more comparison values 39**) [Column 10, lines 34-41; Claim 1].

Although not taught by Havens, Kraftson et al. teaches the steps of:

a server (**host device 107, database processor 106, Electronic Patient Data-collection System 103**) [Figure 8; Column 18, lines 43-58]; and

a network connecting the server (**uplink information is provided from host 107 to database processor 106 through a dial-up access employing modem 801**) to the display device (**host device 107, which may be implemented in a personal**

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**computer, or on a personal hand-held computer organizer, such as a PalmPilot {both of which have display interfaces}}** [Figure 8; Column 6, lines 19-31, Column 19, lines 21-41], wherein the server is programmed to:

produce on the display device (**screen interface of Electronic Patient Data-collection System 103 includes a display section 1006**) graphical data displays (**graphical report**) indicating measurement results based on selected population characteristics [Column 17, lines 16-26; Figures 6, 9A-9D].

Havens is directed to generating a worker assessment by obtaining survey data and comparing said values to benchmarked values found in a benchmark database. Kraftson et al. is directed to the analogous art of collecting survey data to assess quality of services and building a database of information to provide benchmarking summary information. Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Havens to include a server, network, and graphical data displays, as taught by Kraftson et al. because the combination would result enable companies to make information available using Electronic Data Interchange (amongst other well-known means of transmitting data over a computer network) to others for comparative benchmarking purposes, and ensure that that the information is summarized in a means that enables instant comparison, as graphical displays are more succinct and more clearly highlight performance information than reports, raw data, or calculations.



As per claim 2, Havens teaches the system for evaluating survey information **(data is received and manipulated in order to generate comparison values)** of claim 1, wherein the data information may be stratified based on a selected population characteristic **(segmentor 26 examines survey data 15 according to one or more segmentation parameters 28)** [Column 7, lines 22-27; Claims 1, 10, and 16].

As per claim 3, although not taught by Havens, Kraftson et al. teaches the system for evaluating survey information of claim 1, wherein the graphical displays **(graphical report)** are selected by a user **{using Electronic Patient Data-collection System 103}** through the network **(uplink information is provided from host 107 to database processor 106 through a dial-up access employing modem 801)**.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Havens to include the step of enabling users to select graphical displays, because the resulting invention would enable users to view specific graphical displays of information of interest to the user that are relevant and provide clarity.

As per claim 4, Havens teaches a method for evaluating survey information comprising the steps of:

electronically maintaining a database with data information from a data collection **(survey data 15 is retrieved from rank database 14, criteria weights 54 and 56**

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**from weight database 16, benchmark values in benchmark value database 18)**

[Column 6, lines 20-47, Column 9, lines 3-4, 12-18; Claims 1, 10, and 16; Figure 2];

selecting a measurement option (**information has a number of associated characteristics from which information criteria 4 may be selected; each worker or group of workers has associated capabilities from which worker criteria 6 may be selected**) [Column 2, lines 42-52; Figure 1];

electronically retrieving from the data collection the information (**retriever 20 retrieves survey data from rank database 14**) for the selected measurement option [Column 10, lines 22-23; Claims 1, 10, and 16];

electronically performing calculations on the information (**calculator 38 receives and manipulates survey data segments 32, 34, and 36 in order to generate one or more comparison values 39; the high, low, mean, median, and standard deviation are calculated**) [Column 8, lines 27-32, Column 10, lines 34-41; Claims 1, 10, and 16];  
and

electronically controlling a display device (**output device 64**) to display a report based on the selected measurement option [Column 10, lines 12-13; Figure 2].

Although Havens does not explicitly teach the step of displaying a graphical report, Kraftson et al. teaches graphical reports that summarize information to evaluate performance [Column 17, lines 16-26; Figures 6, 9A-9D].

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Havens to include the step of displaying graphical reports, because the resulting combination would ensure that that the information is summarized in a means that enables instant comparison, as graphical displays are more succinct and more clearly highlight performance information than reports, raw data, or calculations.

As per claim 5, although not taught by Havens, Kraftson et al. teaches a method according to claim 4, wherein the graphical report is provided to a user {**using Electronic Patient Data-collection System 103**} through a network (**uplink information is provided from host 107 to database processor 106 through a dial-up access employing modem 801**).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Havens to include the step of providing users with graphical displays through a network, because the resulting invention would enable the usage of Electronic Data Interchange techniques to quickly transmit data of interest to a plurality of users simultaneously, in a clear and lucid form, eliminating the need to transmit said data to each interested party individually.

As per claim 6, Havens teaches a method according to claim 4, wherein selecting the measurement option comprises selecting one of an outcome measurement

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category, a management topic, or a performance measure (**information criteria 4 includes “applicability”, “understandability”, “credibility”, “locatability”, and “manipulatability”; worker criteria 6 includes “information usage”, “handling competence”, “handling speed”, and “hassle generation”**) [Column 3, line 53 – Column 4, line 24].

As per claim 7, Havens teaches a method according to claim 6, wherein the data information is stratified based on a selected population characteristic before a measurement option is selected (**validator 22 examines survey data 15 in accordance with one or more validation parameters 24; segmentor 26 examines survey data 15 according to one or more segmentation parameters 28**) [Column 7, lines 6-27, Claim 1].

As per claim 8, Havens teaches a computer readable medium including a computer program that causes a computer to evaluate survey information, the computer program causing the computer to perform the step of:

maintaining a database with data information from a data collection (**survey data 15 is retrieved from rank database 14, criteria weights 54 and 56 from weight database 16, benchmark values in benchmark value database 18**) [Column 6, lines 20-47, Column 9, lines 3-4, 12-18; Claims 1, 10, and 16; Figure 2];

performing calculations on the data information from the data collection (**calculator 38 receives and manipulates survey data segments 32, 34, and 36 in**

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**order to generate one or more comparison values 39; the high, low, mean, median, and standard deviation are calculated)** [Column 8, lines 27-32, Column 10, lines 34-41; Claims 1, 10, and 16]; and

displaying **{using output device 64}** a display **{appearing on output device 64 of computer 60}** indicating measurements from the data collection based on a selected population characteristics **(comparison of comparison values and benchmark values)** [Column 10, lines 12-13, 43-61; Figure 2].

Although Havens does not explicitly teach the step of displaying a graphical report, Kraftson et al. teaches graphical reports that summarize information to evaluate performance [Column 17, lines 16-26; Figures 6, 9A-9D].

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Havens to include the step of displaying graphical reports, because the resulting combination would ensure that that the information is summarized in a means that enables instant comparison, as graphical displays are more succinct and more clearly highlight performance information than reports, raw data, or calculations.

As per claim 9, Havens teaches a system for evaluating survey information comprising:

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a storage device (**database 12, including rank database 14, weight database 16, benchmark value 18**) [Column 6, lines 20-47, Column 9, lines 3-4, 12-18; Claims 1, 10, and 16; Figure 2];

a display device (**output device 64**); and

a server (**system 10 may operate on one or more computers 60; computer 60**) [Column 10, line 9] programmed to:

maintain in the storage device a database (**database 12**) with data information from a data collection, wherein the data information includes survey population characteristics, survey questions, responses to survey questions, historical information, and comparative practice information (**collectively, information criteria ranks 50, worker criteria ranks 52, information criteria weights 54, worker criteria weights 56, information sector weights 55, and works sector weights 57** comprises the survey data; the survey data also includes information concerning the survey workers, worker associates, worker community, organization, and any other characteristic suitable to create a worker profile for each surveyed worker);

perform calculations on the data information from the data collection (**calculator 38 receives and manipulates survey data segments 32, 34, and 36 in order to generate one or more comparison values 39; the high, low, mean, median, and standard deviation are calculated**) [Column 8, lines 27-32, Column 10, lines 34-41; Claims 1, 10, and 16]; and

produce on the display device graphical displays (**output device 64**) indicating measurements from the data collection based on selected population characteristics, wherein measurements are included for performance measures (**information criteria 4, worker criteria 6**), survey questions (**survey data**), comparative practice benchmarks (**benchmark database 18 contains benchmark values representing any suitable mathematical or other manipulation of survey data 15 or information generated as a result of past surveys**) [Column 3, lines 42-57, Column 6, lines 33-47, Column 10, lines 12-13; Figure 2].

Havens does not teach the step of producing rating scales, control charts, histograms, and pie charts, boolean search results, of verbatims. However, Kraftson et al. teaches the step of rating scales (**“Very Satisfied”, “Satisfied”, “Neutral”, “Dissatisfied”, or “Very Dissatisfied”**), and verbatims (**Comments subfield of Appendix A**) [Column 6, lines 61-65, Columns 24-26].

Although neither Havens nor Kraftson et al. explicitly teaches the step of boolean search results, data is obtained in metrics (Yes/No, on a Likert scale of 1-5) that would enable a Boolean query of survey results to be performed {for example, percentage of respondents saying “Yes” or 5 or have performed a specific action or have more than 5 instances of an action, etc.}, thus meeting the limitation of the claim [Columns 29--36].

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR 1.111(c) to consider the references fully when responding to this Office Action.

Machin et al. (U.S Patent #6,877,034) teaches performance evaluation through benchmarking using an online questionnaire based system. Users are enabled to define customized peer groups and compare results with said customized groups in a wide range of performance categories.

Leslie Day's "Benchmarking Training" (reference 1-U) discloses that businesses have begun to use survey data to benchmark services, products, and practices with those of other companies.

Sujata Bhavnani's "Benchmarking in health-system pharmacy: Current research and practical applications" (reference 1-V) teaches that benchmarking in business and healthcare settings is becoming more widespread. Data is collected from a detailed survey, and results are compared to benchmarked best practices, graphed, and summarized in reports for distribution to individual hospitals and health centers.



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Business Wire's "Sprint, QDM to Co-market Health Care Management Systems" discloses that Sprint Healthcare Systems Inc. and Quality Data Management Inc. are co-marketing a patient-based quality/cost measurement system for health care providers. The Patient Advisor and Healthcare Analyst products combine to create an expert data collection and advanced measurement system which presents data for analysis in highly visual, user-friendly graphic formats. Verbatim\ comments from patient feedback are stored in a database, and the computer display can be manipulated to reveal any set of variables.

This Office action has an attached requirement for information under 37 C.F.R. § 1.105. A complete response to this Office action must include a complete response to the attached requirement for information. The time period for reply to the attached requirement coincides with the time period for reply to this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Choi whose telephone number is (571) 272 6971. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Choi  
Examiner  
Art Unit 3623

*PC*

October 11, 2005

*Susanna DTZ*  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**  
*AU3623*

### **37 CFR § 1.105 - Requirement for Information**

#### ***Request for Additional Information***

Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

Business Wire's "Sprint, QDM to Co-market Health Care Measurement Systems" press release from February 18, 1997 discloses that:

- Sprint Healthcare Systems Inc. and Quality Data Management Inc. have announced an agreement to co-market a patient-based quality/cost measurement system and other applications for health care providers.
- The Patient Advisor and Healthcare Analyst products combine to create an expert data collection and advanced measurement system which presents data for analysis in highly visual, user-friendly graphic formats.
- Patient Advisor allows health care organizations to instantaneously assess the feedback from patients – in the form of both performance ratings and verbatim comments as to why specific ratings were given.
- Respondents participate by telephone.

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- Ratings and comments are transcribed at the time of the interview and fed into a database.
- Responses are verbatim, not filtered through focus groups or moderator interpretation.
- The resulting data arrives not in the form of voluminous tabular output, but rather as a multifaceted computer display that can easily be manipulated to reveal any set of variables.

It has been established that the Patient Advisor and Healthcare Analyst products precede the claimed invention. However, the extent to which the claimed invention absorbed the Patient Advisor and Healthcare Analyst products is unknown. It is unclear whether the claimed invention evolved from the Patient Advisor and Healthcare Analyst products (completely or partially) or simply shares certain modules of data collection and analysis techniques. From the press release, it is evident that there is a significant amount of overlap between the Patient Advisor and Healthcare Analyst products and the claimed invention (collecting data for analysis and user-friendly graphical presentations in health care systems, inclusion of verbatim comments, storage of feedback in databases, surveying patients to obtain feedback, enabling the manipulation of variables in a computer display).

The information is required to complete the background description in the disclosure by documenting the level of overlap between the Patient Advisor and Healthcare Analyst products and claimed invention.

The information is required to identify products and services embodying the disclosed subject matter of presenting survey and report data and identify the properties of similar products and services found in the prior art.

In response to this requirement, please provide the citation and a copy of each publication that any of the applicants relied upon to develop the disclosed subject matter that describes the applicant's invention, particularly as to developing (Patient Advisor and Healthcare Analyst). For each publication, please provide a concise explanation of the reliance placed on that publication in the development of the disclosed subject matter.

In response to this requirement, please provide the citation and a copy of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter of airline simulations, especially those disclosing the Patient Advisor and Healthcare Analyst products.

In response to this requirement, please state the specific improvements of the claimed subject matter in claims 1-9 over prior art (Patient Advisor and Healthcare

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Analyst products) and indicate the specific elements in the claimed invention that provide those improvements. For those claims expressed as means or steps plus function, please provide the specific page and line numbers within the disclosure that describe the claimed structure and acts.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

This requirement is an attachment of the enclosed Office action. A complete response to the enclosed Office action must include a complete response to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action, which is 3 months.

PC

October 12, 2005

  
TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600